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EAST TIMOR: UNFAIR TRIALS AND FURTHER RELEASES OF POLITICAL PRISONERS

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Since August 1987 some 150 political detainees have been released from prisons in Dili, the capital of East Timor. (See ASA 21/23/87 East Timor: Releases of Political Prisoners; ASA 21/24/87 East Timor: Further Releases of Political Prisoners; and ASA 21/01/88 East Timor: Additional Information on the Releases of Political Prisoners). The releases of 52 prisoners in February 1988 reduced the number of detainees remaining in Dili prisons to 11, according to a report from Antara, the Indonesian news agency, although Amnesty International has been unable to confirm this independently.

Amnesty International has questioned the fairness of the trials in East Timor since the first political prisoners were brought before Dili District Court in December 1983. Recent information indicates that many of the prisoners were tried after long periods of incommunicado detention, gave testimony or served as witnesses under duress and either were not informed of their right to appeal or were pressured into accepting the court verdict.

This summarizes a four-page document, East Timor: Unfair Trials and Further Releases of Political Prisoners;(ASA 21/08/88) , issued by Amnesty International in April 1988. Anyone wanting further details or to take action on this issue should consult the full document.

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Since August 1987 some 150 political detainees have been released from prisons in Dili, the capital of East Timor. (See ASA 21/23/87 East Timor: Releases of Political Prisoners; ASA 21/24/87 East Timor: Further Releases of Political Prisoners; and ASA 21/01/88 East Timor: Additional Information on the Releases of Political Prisoners.) The release of 52 prisoners in February 1988 reduced the number of detainees remaining in Dili prisons to 11, according to a report from Antara, the Indonesian news agency, although Amnesty International has been unable to confirm this independently.

Most of the released prisoners had served all but a few months of their sentences and were released before their full term had expired in accordance with a standard policy on remissions. A few among those released in February 1988, however, had more than a year of their sentence remaining.

Many of the released prisoners appear to have been tried on the basis of false or coerced testimony after long periods of incommunicado detention during which some were reportedly told that signing a "confession" and being brought before a court would enable them to receive visits from their families. Many apparently did not understand that they had the right to appeal their sentences and in some cases were told that if they did not accept their sentence without appeal, it would be increased. (Amnesty International has repeatedly expressed concern that over 200 prisoners were tried between 1983 and 1987 without a single appeal hearing having been held. The presiding judge of Dili District Court where the trials took place said in 1985 that all defendants pleaded guilty and accepted the court verdict because they were honest and never denied anything. Amnesty International questions this interpretation. See ASA 21/44/85 Unfair Trials and Possible Torture in East Timor.)

The background to the arrest, trial and release of several prisoners from Baucau is described below.

Prisoners from Baucau District: A Case Study

Sebastiao Sarmento from Wailili, Baucau was released in September 1987; Rafael Xavier from Gariwai (Gari Uai) was released in October. Both were among more than 100 people arrested in August 1983 during the Indonesian military offensive known as Operasi Sapu Bersih ("Operation Clean Sweep") which followed the breakdown the previous March of a ceasefire between the Indonesian army and the armed forces of the Frente Revolucionaria de Timor Leste Independente (Fretilin). Many of those arrested in August 1983 were

reportedly detained and tortured in military detention centers such as the KODIM (military district command), KORAMIL (sub-district command) and in an annex behind the Hotel Flamboyan used by the Indonesian Special Forces (Kopassus). Some were released, others "disappeared" and several dozen including Sebastiao Sarmento and Rafael Xavier, who had been detained in KODIM 1628 in Baucau, were sent by truck in September 1983 to the Comarca Prison in Dili for trial.

No international organization had access to the Comarca at the time, and the availability of food and medicine was reported to be far below minimally accepted standards. Conditions were said to improve somewhat after the International Committee of the Red Cross was given permission to make regular visits to the prison in June 1984. According to Amnesty International's information, neither Sebastiao Sarmento, Rafael Xavier nor any of the other prisoners in the Comarca were allowed contact with friends, relatives or lawyers until after they had been tried, and the prospect of seeing their families was said to have been one inducement held out to the prisoners by the Indonesian authorities in order to get them to sign "confessions".

In early 1985 Sebastiao Sarmento and Rafael Xavier were taken from the Comarca to the public prosecutor's office in Dili in the building that formerly housed the Club Benfica. There they were asked to fill out and sign an interrogation statement (berita acara pemeriksaan or BAP) testifying to their guilt in front of an investigating team (tim pemeriksaan) consisting of a police officer, a typist and an interpreter. According to one source there was no evidence that these men were actively involved in the resistance, but they came from areas where Fretilin was active and inevitably knew some of the fighters. The lack of evidence presented a problem for the prosecution which appeared to be determined to try them but also to adhere closely to procedures outlined in the Indonesian Criminal Procedure Code (KUHAP). The Code requires at least two separate pieces of evidence to convict someone. The confession of the accused cannot stand on its own, nor can the testimony of a single witness. In the case of the two Baucau prisoners whose interrogation statements contained little evidence usable in court, the prosecutor persuaded other prisoners from the same hamlet to testify against them. These testimonies then became the basis for the prosecution's case against the witnesses themselves.

Thus, Carlos Freitas and Jacinto Freitas, both from Wailili like Sebastiao Sarmento, testified against the latter. All three were tried in February 1985; Sebastiao received a prison term of three years, Carlos Freitas received two and a half, and Jacinto Freitas received three and a half. All have now been released.

Likewise three men from Gariwai--Jose Belo, Jose Freitas and Jose Maria Ximenes--reportedly testified against Rafael Xavier and all became defendants in turn. Jose Maria Ximenes had been arrested reportedly because his brother-in-law, Tomas Rodrigues, was a Fretilin leader. He received a sentence of two years, Jose Belo and Jose Freitas each were sentenced to 34 months and Rafael Xavier received a three-year sentence.

All of the men in question were peasants with almost no education, and it is unlikely that they understood the consequences of their agreement to sign the BAPs and testify against each other. Their court-appointed defence team from Trisula Legal Aid Institute in Kupang said in the Far Eastern Economic Review (8 August 1985) that guilty pleas saved time and

that they saw their role as limited to lightening the sentence requested by the prosecutor. Few of the trials lasted longer than a week; in some cases, if the lawyers were in town, prisoners reportedly were taken from the Comarca to the prosecutor's office to sign their statement and then taken across the street to the District Court on the same day to be tried and sentenced.

Prisoners Who Refused to Sign Interrogation Statements

Not all prisoners agreed to sign the BAPs prepared at the prosecutor's office. Cristiano da Costa was among 50 prisoners, 19 of them from Baucau, who refused to do so when brought to the prosecutor's office in early 1985. With their refusal to accept guilt, there was no evidence against them, and all were eventually released on 27 April 1985 in a ceremony at the KODIM headquarters in Dili.

In a statement to the United Nations Special Committee on Decolonization in August 1985, Amnesty International noted that it had received a list of the 50 persons accused of supporting Fretilin who were released on 27 April 1985. "It is to be assumed," the statement said, "that these prisoners were held without charge or trial since their names do not coincide with the names of [those] tried." As Cristiano da Costa's experience shows, this proved to be correct.

He and some 20 others were arrested in Baucau in August 1983 and sent after two weeks to the Comarca. According to his later account, for the first two days of his imprisonment at the KODIM in Baucau, he was tortured during interrogation with lighted cigarettes applied to his face and live electric wires tied to his fingers and held in one ear. He was beaten and kicked, and after he fell to the floor from a heavy blow by one of his military interrogators, a soldier stepped on his head, smashing his two front teeth. Following his transfer to Dili, he was held for 20 months in the Comarca without being allowed to contact friends or family. Amnesty International is not aware of any action having been taken against the military officer responsible for Cristiano da Costa's torture who has been identified by name.

Conclusions

While Amnesty International welcomes the releases of political prisoners in East Timor it believes that many may have been ill-treated during interrogation and unfairly tried. The fact that the torture of some prisoners occurred almost five years ago does not lessen the iniquity of the act nor the obligation of the government to investigate the allegations and provide compensation to victims as needed. The experience of some of the released prisoners might have come to public attention earlier had international organizations had access to military detention centres outside Dili and to the trials in Dili District Court. Amnesty International calls on the Indonesian Government to allow such access, to apply the United Nations Standard Minimum Rules for the Treatment of Prisoners not only to prisoners in Dili but to detainees held in military interrogation centres outside the capital, and to observe international standards for fair trials set forth in the International Covenant on Civil and Political Rights.

APPENDIX

EAST TIMORESE PRISONERS RELEASED IN DILI ON 19 FEBRUARY 1988

Name		Place of Origin	Sentence	Date Sentence Began
1.	Joao Felisiano Suriano	Dili	5 yrs	29.5.84
2.	Matias Oliveira	Dili	5 yrs	30.5.84
3.	Octavia Maria de Araujo	Dili	5 yrs	30.5.84
4.	Maria Immaculada	Dili	5 yrs	30.8.84
5.	Beatris Duarte Alberto	Dili	5 yrs	30.8.84
6.	Alexander Rosa	Dili	5 yrs	30.8.84
7.	Fernando da Costa	Viqueque	5 yrs	27.9.84
8.	Dominggas da Costa	Dili	6 yrs	10.11.84
9.	Paulo Amaral	Viqueque	4 yrs	20.10.84
10.	Joao Bosco J. Aniceto	Dili	4 yrs	19.10.84
11.	Francisco Felisiano	Baucau	4 yrs	19.10.84
12.	Baltazar Mendes	Dili	3.5 yrs	15.7.85
13.	Miguel Soares	Viqueque	4 yrs	30.7.85
14.	Moses da Costa	Same	3 yrs	30.7.85
15.	Dominggus Bareto	Manatuto	3 yrs	8.8.85
16.	Dominggus Ximenes	Manatuto	3 yrs	8.8.85
17.	Alvaro dos Santos	Maliana	3.5 yrs	13.8.85
18.	Tito Bareto	Viqueque	3 yrs	13.8.85
19.	Carlos da Costa	Maliana	3 yrs	19.8.85
20.	Manuel Agustino	Maliana	3 yrs	19.8.85
21.	Antonio Amando Soares	Viqueque	3 yrs	16.12.85
22.	Cristovao Ximenes	Viqueque	2 yrs	19.3.86
23.	Marcelino Sarmento	Baucau	2 yrs	18.10.86
24.	Dominggus da Costa	Viqueque	2 yrs	21.12.87
25.	Rosa Mendoza	Ainaro	2 yrs	23.10.86
26.	Joao Xavier	Ainaro	2 yrs	23.10.86
27.	Ernesto Soares	Baucau	2 yrs	23.10.86
28.	Armando dos Santos	Lospalos	2 yrs	25.10.86
29.	Rumaldo Pereira	Baucau	1.5 yrs	4.2.87
30.	Florindo da Costa	Aileu	2 yrs	3.2.87
31.	Egidio de Jesus	Aileu	1.5 yrs	29.1.87
32.	Henrique Falcao	Aileu	1.5 yrs	9.2.87
33.	Alcina dos Santos	Lautem	1.5 yrs	16.2.87
34.	Dominggus Xavier	Aileu	2 yrs	16.2.87
35.	Leao Mendoza	Aileu	2 yrs	5.2.87
36.	Vital Noroha	Aileu	2 yrs	9.2.87
37.	Tito de Araujo	Aileu	2 yrs	9.2.87
38.	Sabino Bareto	Maliana	4 yrs	15.8.85
39.	Manuel Marsal Sequiera	Baucau	3 yrs	11.11.86
40.	Maria Fatima Pinto	Dili	6.5 yrs	28.8.84
41.	Joaquina	Lautem	3 yrs	16.2.87
42.	Marsal Maya	Bobonaro	4.5 yrs	12.8.85
43.	Alfonso	Viqueque	5 yrs	29.8.85
44.	Antonio	Lospalos	5 yrs	14.12.85
45.	Amaro Sarmento	Viqueque	3 yrs	27.8.86
46.	Candido Babo	Viqueque	3.5 yrs	3.7.86
47.	Jose Ramos	Ainaro	3 yrs	21.11.86
48.	Ricardo Freitas	Baucau	3 yrs	17.10.86
49.	Jose Fernandes	Lospalos	2 yrs	28.1.87
50.	Francisco Soares	Lautem	1.5 yrs	2.12.87
51.	Dominggus Rodrigues	Lautem	1.5 yrs	2.12.87
52.	Antonio da Cruz	Lautem	1.5 yrs	2.12.87